

Creating Test for Trump, Panel Says Imported Solar Gear Hurts U.S. Firms



Solar panels on a roof at the Brooklyn Navy Yard in New York. The International Trade Commission ruled Friday that imports were harming American makers of solar equipment.

By DIANE CARDWELL and ANA SWANSON

WASHINGTON — A flood of imported solar equipment has seriously hurt American companies, the International Trade Commission ruled on Friday, setting up a major test of President Trump’s willingness to use the protectionist measures he endorsed during the campaign.

The commission will now devise a course of action to recommend to Mr. Trump by Nov. 13. Its recommendations — which the president will have broad leeway to accept, amend or reject — could include establishing tariffs or minimum prices on imported solar equipment.

The commission ruled 4-0 in a case that focused on the question of whether the financial woes of two companies, Suniva and SolarWorld Americas, were caused by their own business practices or by unfair competition, often from Chinese companies that benefit from state subsidies.

The commission determined that the domestic solar equipment industry had been harmed by imports, including those from trading partners like Mexico and South Korea, with one commissioner adding Canada to the list.

In a statement, Suniva welcomed the ruling.

“We brought this action because the U.S. solar manufacturing industry finds itself at the precipice of extinction at the hands of foreign market overcapacity,” the company, which is based in Georgia, said in the statement. “It will be in President Trump’s hands to decide whether America will continue to have the capability to manufacture this energy source.”

The decision was a rebuke to executives in the American solar industry who had argued against the legitimacy of the case.

The Solar Energy Industries Association has argued that the petition filed with the commission by the companies was “deeply flawed” and that bad management, not trade injustices, had brought on their problems. The association’s members are concerned that higher prices for imported solar equipment could slow the spread of solar energy in the country.

The decision “is disappointing for nearly 9,000 U.S. solar companies and the 260,000 Americans they employ,” said Abigail Ross Hopper, the solar energy association’s chief executive. She said the group would seek to prevent “damaging trade relief.”

The White House did not take a side after the vote but expressed support for solar equipment makers.

“The president will examine the facts and make a determination that reflects the best interests of the United States,” said Natalie Strom, a White House spokeswoman. “The U.S. solar manufacturing sector contributes to our energy security and economic prosperity.”

The petition attracted an unusual level of attention and submissions of letters and data. It resulted in a staff report of more than 500 pages, said Rhonda K. Schmittlein, the commission’s chairwoman.

The next phase is likely to be no different, trade and energy lawyers said, as various groups look to influence the commission’s recommended remedy, which will go to Mr. Trump’s desk. There will be a public hearing on Oct. 3.

Several analysts predicted that tariffs would revive the manufacturing of solar modules, or panels, in the United States, encouraging producers to open or expand American factories, as some large Chinese panel makers are already looking to do. But others said problems in the market were the result of low prices stemming from a global glut rather than a lack of capacity.

At least one American company stands to benefit from tariffs on imports: First Solar, which manufactures overseas and uses a different technology that is not covered by the trade action.

Although companies like Sunrun, which focuses on installing panels on residential rooftops, said they could withstand higher prices, developers of large-scale projects said they were already seeing a slowdown as customers pulled back from committing to deals that could become uneconomical if costs rose.

Scott Canada, a senior vice president at McCarthy Building Companies, said that uncertainty surrounding the case had brought a flurry of business this year “to a screeching halt” and that the imposition of high tariffs could stall the industry for 18 months or more.

At the same time, the industry is focused on lowering its costs, especially given that an important federal tax credit is set to begin phasing down in 2020.

The dispute stemmed from a trade war between the United States and China that started in 2011. In that case, SolarWorld Americas, a subsidiary of a now-bankrupt German panel maker, filed a trade complaint along with six other United States solar manufacturers. They accused Chinese companies of using unfair government subsidies to help sell their merchandise for less than the cost of manufacturing and shipping it.

SolarWorld won the case, as well as a second that included Taiwan, where Chinese manufacturers had turned to avoid anticipated tariffs. But the result sparked a global race to the bottom on price, Suniva and SolarWorld Americas argued, as manufacturers continued to evade tariffs by opening factories in other low-cost countries.

To end what the petition referred to as a game of Whac-a-Mole, the two companies sought blanket global protections to prevent manufacturers from circumventing tariffs aimed at specific countries, which the commission moved ahead on Friday.

The case relied on a section of United States trade law that has not been used since President George W. Bush levied tariffs on foreign steel in 2002. In the intervening years, Barack Obama’s administration chose to rely more heavily on the World Trade Organization to settle trade disputes.

President Trump and his advisers have argued that the World Trade Organization has been ineffective and slow at resolving trade violations. They have urged more unilateral action by the United States.

Analysts see a good chance of the president’s taking action to protect the solar industry, given his longtime support for tariffs as a way to protect industries from cheap foreign products, especially from China.

As a result, broad segments of the solar industry say they are worried that the case will determine how and whether the American solar industry continues to grow. The sharp drop in the cost of panels has made it difficult for domestic manufacturers to compete, but it has also fueled a boom in solar development throughout the country, providing a lift to an industry that says it employs over a quarter-million workers.

Indeed, the case has already reshaped the market. Prices for solar panels have increased as buyers have rushed to get ahead of potential tariffs. Solar-farm developers have become skittish about long-term commitments to supply power at prices that could become uneconomical if tariffs raise their costs.

Yet the tariffs could end up having relatively little effect on Chinese products, said Chad Bown, a trade expert at the Peterson Institute for International Economics.

Earlier trade cases have already stemmed the flow of many solar products from China, he said. As a result, the broad tariffs that this measure could impose would fall more heavily on imports from South Korea, Mexico, Japan, Europe, Singapore and Malaysia, Mr. Bown's research shows